



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

April 15, 1996

Mr. Burton F. Raiford
Commissioner
Texas Department of Human Services
P.O. Box 149030
Austin, Texas 78714-9030

OR96-0538

Dear Mr. Raiford:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 39305.

The Texas Department of Human Services (the "department") received an open records request for certain categories of information pertaining to certain classes of medicaid recipients that were identified in a statistical report entitled "Annual Report on Community Based Alternatives" dated February 15, 1996. Specifically, the requestor seeks information pertaining to "each of the 64 deinstitutionalized waiver recipients" and "each of the 387 diverted waiver recipients." The requestor goes on to limit the scope of his request by excluding "any individual waiver recipient identification information such as name, Medicaid number, etc. so that you may maintain waiver recipient confidentiality." You contend that the department cannot comply with the open records request because information pertaining to individual medicaid recipients is confidential by law and thus must be withheld pursuant to section 552.101 of the Government Code.

Section 552.101 of the Government Code protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 21.012 of the Texas Human Resources Code requires that the department

shall provide safeguards which restrict the use or disclosure of information concerning applicants for or recipients of the department's assistance programs to purposes directly connected with the administration of the programs.

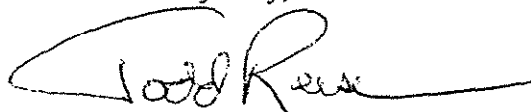
Section 12.003 of the code provides:

Except for purposes directly connected with the administration of the department's assistance programs, it is an offense for a person to solicit, disclose, receive, or make use of, or to authorize, knowingly permit, participate in, or acquiesce in the use of the names of, or *any information concerning, persons applying for or receiving assistance* if the information is directly or indirectly derived from the records, papers, files, or communications of the department or acquired by employees of the department in the performance of their official duties. [Emphasis added.]

In Open Records Decision No. 586 (1991), this office concluded that "[t]he inclusion of the words 'or any information' juxtaposed with the prohibition on disclosure of the names of the department's clients clearly expresses a legislative intent to encompass the broadest range of individual client information, and not merely the clients' names and addresses." Consequently, it is the specific information pertaining to individual clients, and not merely the clients' identities, that is made confidential under section 12.003. *See also* Open Records Decision No. 166 (1977). Accordingly, assuming that the requestor is not seeking the requested information "for purposes directly connected with the administration of the department's assistance programs," we conclude that the department may not release "de-identified" client records or any other information "directly or indirectly derived from the records, papers, files, or communications" maintained by the department. The information must be withheld pursuant to section 552.101 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink, appearing to read "Todd Reese", with a long horizontal flourish extending to the right.

Todd Reese
Assistant Attorney General
Open Records Division

RTR/RWP/ch

Ref.: ID# 39305

Enclosures: Submitted documents

cc: Mr. Thomas M. Suehs
Executive Director
Texas Health Care Association
P.O. Box 4554
Austin, Texas 78765
(w/o enclosures)